



PURCHASE ORDER TERMS AND CONDITIONS

1. **MODIFICATION.** No modification of this purchase order shall bind Buyer unless Buyers agrees to the modification in writing.
2. **PACKING AND SHIPPING.** Seller shall be responsible for industry standard packing which conforms to requirements of carriers' tariffs and ICC regulations. Containers must be clearly marked as to lot number, destination address and purchase order number.
3. **TITLE AND RISK OF LOSS.** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives the goods at the point of delivery.
4. **INVOICE AND PAYMENT.** A separate invoice shall be issued for each shipment. No invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and correct invoice. Payment due dates, including discount periods, will be computed from date of receipt of goods or date of receipt of correct invoice (whichever is later) to date Buyer's warrant is mailed. Unless freight and other charges are itemized, any discount provided will be taken on full amount of invoice. Payment shall be subject to the provisions of Title 35 of Arizona Revised Statutes. The Buyer's obligation is payable solely from funds appropriated for the purpose of acquiring the goods or services referred to in the Purchase Order.
5. **INSPECTION.** All goods are subject to final inspection and acceptance by Buyer. Material failing to meet the requirements of this Purchase Order will be held at Seller's risk and may be returned to Seller. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of the Seller.
6. **NO REPLACEMENT OF DEFECTIVE TENDER.** Every tender of goods must fully comply with all provisions of this Purchase Order as to the time of delivery, quantity, quality and the like. If a tender is made which does not fully conform, it shall constitute a breach and Seller shall not have the right to substitute conforming tender.
7. **FORCE MAJEURE.** Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or conditions of this Purchase Order are delayed or prevented by any cause not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, that party is unable to prevent.
8. **GRATUITIES.** The Buyer may, by written notice to the Seller, cancel this Purchase Order if it is found by Buyer that gratuities, in the form of entertainment, gifts or otherwise were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the State of Arizona with a view toward securing and order of securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing, of such order. In the event this Purchase Order is cancelled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Seller the amount of the gratuity.
9. **WARRANTIES.** Seller warrants the all goods delivered under this Purchase Order will conform to the requirements of this Purchase Order (including all applicable descriptions, specifications, drawings, and samples), will be free from defects in material and workmanship and will be free from any defects in design and fit for the intended purposes. Any inspection or acceptance of the goods by Buyer shall not alter or affect obligations of Seller or the fight of Buyers under the foregoing warranties.
10. **ASSIGNMENT-DELEGATION.** No right or interest in this Purchase Order shall be assigned by Seller without the written permission of Buyer, and no delegation of any duty of Seller shall be made without permission of Buyer.
11. **INTERPRETATION – PAROL EVIDENCE.** This Purchase Order is intended by the parties as a final expression their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Purchase Order. Acceptance or acquiescence in a course of performance rendered under this Purchase Order shall not be relevant to determine the meaning of this Purchase Order even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this Purchase Order, the definition contained in the Code is to control.
12. **NON-DISCRIMINATION.** Seller agrees not to discriminate against any employee or applicant for employment in violation of the terms of Federal Executive Order 11246, State Executive Order No. 75-5 and A.R.S. Section 41-1461 et seq.
13. **INDEMNITY.** A Seller agrees to indemnify and save the Buyer harmless from any loss, damage or expense whatsoever resulting to the Buyer from any and all claims and demands on account of infringement or alleged infringement of any patent in connection with the manufacture or use of any product included in this Purchase Order and upon written request Seller will defend at its own cost and expense any legal action or suit against the Buyer involving any such alleged patent infringement, and will pay and satisfy any and all judgements or decrees rendered in any such legal actions or suits. Seller will indemnify Buyer against all claims for damages to person or property resulting from defects in materials or workmanship.
14. **LIENS.** All goods delivered and labor performed under this Purchase Order shall be free of all liens, and if Buyer requests, a formal release of all liens will be delivered to Buyer.
15. **CONTRACT NUMBER.** If an Arizona contract number appears on the face of this Purchase Order, the terms of that contract are incorporated herein by this reference.
16. **TAXES.** The State of Arizona is exempt from Federal Excise Tax.
17. **CONFLICT OF INTEREST.** Pursuant to A.R.S. Section 38-511 this Purchase Order is subject to cancellation by the Buyer if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state is, at any time while the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
18. **REMEDIES AND APPLICABLE LAW.** This Purchase Order shall be governed by, and Buyer and Seller shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this Purchase Order or in statutes pertaining specifically to the State. This Purchase Order shall be governed by the law of the State of Arizona, and suits pertaining to this Purchase Order may be brought only in the courts of the State Of Arizona.
19. **ARBITRATION.** The parties must use arbitration as required by A.R.S. Section 12-1518.